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WHEREAS, on August 1, 2014, nominal defendant Swisher Hygiene, Inc. accepted service of the Complaint;

WHEREAS, the Complaint has not yet been served on the individual defendants (the "Defendants") named therein;

WHEREAS, on September 25, 2013, the Court stayed the action pending resolution of the consolidated class action captioned *In re Swisher Hygiene, Inc. Securities and Derivative Litigation*, MDL Docket No. 3:12-MD-2384-GCM ("Consolidated Class Action");

WHEREAS, on August 4, 2014, the Court approved a settlement of the Consolidated Class Action;

WHEREAS, the parties to the above-captioned action have now reached an agreement regarding service of the Complaint on Defendants, and Swisher's and Defendants' time to answer, move or otherwise respond to the Complaint;

IT IS HEREBY STIPULATED AND AGREED, by and among the parties through the undersigned counsel, subject to the approval of the Court, that:

1. Defendants H. Wayne Huizenga, Steven R. Berrard and Michael J. Kipp, through their undersigned counsel, accept service of the Summons and Complaint and waive any defense based on insufficiency of service. Nothing in this Stipulation regarding the acceptance of service shall constitute a waiver of any other defense that any these individuals may have.
2. On or before November 4, 2014, Swisher will file its motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 23.1 and opening brief in support thereof.
3. On or before December 5, 2014, Plaintiff will file his brief in opposition to Swisher's motion to dismiss.

4. On or before December 19, 2014, Swisher will file its reply brief in support of its motion to dismiss.
5. Defendants do not need to file any motions pursuant to Rule 12(b)(6) until after the Court rules on Swisher's Rule 23.1 motion to dismiss, and until a specific response time is agreed upon by the parties, which is to be no earlier than 30 days following the Court's ruling. Counsel for the Defendants other than Swisher are not required to appear in the *Borthwick* action (No. 3:13-cv-449-GCM) until after the resolution of the Rule 23.1 motion, although they may elect to appear and join in Swisher's motion provided that they do not file a separate substantive brief in support of the motion. If the Rule 23.1 motion is denied, Swisher shall cooperate with Plaintiff's counsel to assist with service on those individual defendants who are not parties to this stipulation.
6. All other proceedings in the action are stayed until the Court rules on Swisher's motion to dismiss pursuant to Rule 23.1.

7. The parties hereto reserve their rights to seek a modification of this order or any other relief upon expiration of this order.

Respectfully submitted,

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Dated: October 21, 2014

Respectfully submitted,

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SO ORDERED.

Signed: October 23, 2014



Graham C. Mullen
United States District Judge

